

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement – Air)
BERTEAU-LOWELL PLATING)	
WORKS, INC., an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: Berteau-Lowell Plating Works, Inc.
c/o Mr. James Elies, Registered Agent
2320 W. Fullerton Avenue
Chicago, IL 60647

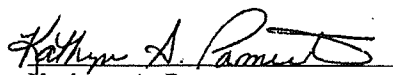
PLEASE TAKE NOTICE that we have today, February 17, 2012, filed the initial Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A true and accurate copy of the Complaint is attached hereto and served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

RESPECTUFLLY SUBMITTED,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
Kathryn A. Pamerter
Environmental Bureau
Assistant Attorney General
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Chicago, Illinois 60602
(312) 814-0608

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
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Complainant,)	
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BERTEAU-LOWELL PLATING)	
WORKS, INC., an Illinois corporation,)	
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Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, BERTEAU-LOWELL PLATING WORKS, INC., as follows:

COUNT I

FAILURE TO PREPARE AN ANNUAL COMPLIANCE CERTIFICATION AND DEMONSTRATE CONTINUOUS COMPLIANCE WITH APPLICABLE MANAGEMENT PRACTICES AND EQUIPMENT STANDARDS FOR PLATING AND POLISHING OPERATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged with, *inter alia*, the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), after providing Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. At all times relevant to this complaint, Respondent, BERTEAU-LOWELL PLATING WORKS, INC., has been and is an Illinois corporation in good standing. Its registered agent is Mr. James Elies, 2320 W. Fullerton Avenue, Chicago, Illinois, 60647.

5. At all times relevant to this complaint, Respondent owned and operated an electroplating facility at 2320 W. Fullerton Avenue, Chicago, Cook County, Illinois (the "Facility").

6. Respondent's operation of the Facility is subject to the Act and the Board's air pollution rules and regulations, which are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code.

7. Pursuant to the provisions of the Act and pertinent regulations, Respondent is required to operate pursuant to an Illinois EPA-issued permit, regulating its emissions at the Facility.

8. Since June 1, 2004, Respondent has owned and operated a decorative chrome electroplating operation and an open top batch vapor degreaser at the Facility, both of which constitute an emission source at the Facility. Respondent also operates non-cyanide nickel plating and cadmium plating tanks.

9. On September 28, 2004, the Illinois EPA issued Federally Enforceable State Operating Permit (FESOP) – National Emission Standards for Hazardous Air Pollutants ("NESHAP") Source Permit No. 73070088 ("FESOP No. 73070088") to Respondent for its

decorative chrome electroplating operation and open top batch vapor degreaser at the Facility, which had an expiration date of September 28, 2009. On or around May 4, 2009, Respondent filed a permit renewal application with the Illinois EPA. Since September 28, 2009, Respondent has been required to operate in accordance with FESOP No. 73070088 with respect to emissions from its decorative chrome electroplating tank and open top batch vapor degreaser.

10. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), provides as follows:

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; . . .

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

12. Respondent is a “person” as that term is defined in Section 3.315 the Act, 415 ILCS 5/3.315 (2010).

13. Subpart WWWW of Part 63, Title 40 of the Code of Federal Regulations (“C.F.R.”) was adopted pursuant to Section 112 of the Clean Air Act as part of the NESHAP regulations. Subpart WWWW contains the National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations. The standards of 40 C.F.R. 63, Subpart WWWW are enforceable in the State of Illinois pursuant to Section 9.1 of the Act, 415 ILCS 5/9.1 (2010).

14. As an owner and operator of non-cyanide nickel plating and cadmium plating tanks, Respondent is subject to the requirements of 40 C.F.R. 63, Subpart WWWW.

15. Sections 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii) of the NESHAP regulations, 40 C.F.R. §§ 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii), provide:

(d) To demonstrate continuous compliance with the applicable management practices and equipment standards specified in this subpart, you must satisfy the requirements specified in paragraphs (d)(1) through (8) of this section.

* * *

- (2) You must prepare an annual compliance certification according to the requirements specified in § 63.11509(c), "Notification, Reporting, and Recordkeeping," and keep it in a readily-accessible location for inspector review.
- (3) If you own or operate an affected electroplating, electroforming, or electropolishing tank that contains one or more of the plating and polishing metal HAP [Hazardous Air Pollutant] and is subject to the requirements in § 63.11507(a), "What are my standards and management practices?", and you use a wetting agent/fume suppressant to comply with this subpart, you must demonstrate continuous compliance according to paragraphs (d)(3)(i) through (iii) of this section.
 - (i) You must record that you have added the wetting agent/fume suppressant to the tank bath in the original make-up tank.
 - (ii) For tanks where the wetting agent/fume suppressant is a separate ingredient from the other tank additives, you must demonstrate continuous compliance according to paragraphs (d)(3)(ii)(A) and (B) of this section.
 - (A) You must add wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the tank bath, as in the original make-up of the tank; or in proportion such that the bath is brought back to the original make-up of the tank.

(B) You must record each addition of wetting agent/fume suppressant to the tank bath.

(iii) You must state in your annual compliance certification that you have added wetting agent/fume suppressant to the bath according to the manufacturer's specifications and instructions.

16. Since June 1, 2004, Respondent has owned and operated non-cyanide nickel electroplating tanks and a cadmium electroplating tank that contains one or more of the plating and polishing metal HAPs and is subject to the requirements of Section 63.11507(a) of the NESHAP regulations, 40 C.F.R. § 63.11507(a).

17. Since June 1, 2004, Respondent has used a wetting agent/fume suppressant in its non-cyanide nickel electroplating and cadmium electroplating tanks.

18. Beginning on July 1, 2010, and on dates better known to Respondent, Respondent failed to prepare an annual compliance certification and keep it in a readily-accessible location for Illinois EPA review.

19. Beginning on July 1, 2010, and on dates better known to Respondent, Respondent failed to keep records of the wetting agent/fume suppressant added to Respondent's non-cyanide nickel electroplating and cadmium electroplating tanks and thereby failed to demonstrate continuous compliance with the applicable management practices and equipment standards specified in 40 C.F.R. 63, Subpart WWWW.

20. On November 17, 2010, the Illinois EPA conducted an inspection at the Facility, during which Respondent failed to provide the annual compliance certification and wetting agent/fume suppressant records to the Illinois EPA inspector.

21. By failing to prepare an annual compliance certification, keep it in a readily-

accessible location for Illinois EPA review and maintain records of the wetting agent/fume suppressant added to Respondent's non-cyanide nickel electroplating and cadmium electroplating tanks, Respondent violated Sections 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii) of the NESHAP regulations, 40 C.F.R. §§ 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii), and, as a result, also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), and Sections 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii) of the NESHAP regulations, 40 C.F.R. §§ 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii); as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), and Sections 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii) of the NESHAP regulations, 40 C.F.R. §§ 63.11508(d)(2), (d)(3)(i), (d)(3)(ii)(A), (d)(3)(ii)(B) and (d)(3)(iii);
4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board may deem appropriate.

COUNT II

FAILURE TO PREPARE AN ANNUAL CERTIFICATION OF COMPLIANCE REPORT FOR PLATING AND POLISHING OPERATIONS

1-16. Complainant realleges and incorporates herein by reference paragraphs 1 through 14 and 16 through 17 of Count I as paragraphs 1 through 16 of this Count II.

17. Section 63.11509(c)(1) of the NESHAP regulations, 40 C.F.R. § 63.11509(c)(1), provides:

(c) If you own or operate an affected source, you must prepare an annual certification of compliance report according to paragraphs (c)(1) through (7) of this section. These reports do not need to be submitted unless a deviation from the requirements of this subpart has occurred during the reporting year, in which case, the annual compliance report must be submitted along with the deviation report.

(1) If you own or operate an affected electroplating, electroforming, or electropolishing tank that is subject to the requirements in § 63.11507(a)(1), "What are my standards and management practices?", you must state in your annual compliance certification that you have added wetting agent/fume suppressant to the bath according to the manufacturer's specifications and instructions.

18. Respondent owns and operates non-cyanide nickel electroplating and cadmium electroplating tanks, each of which constitutes an affected source under Section 63.11509(c)(1) of the NESHAP regulations, 40 C.F.R. § 63.11509(c)(1).

19. Beginning on July 1, 2010, and on dates better known to Respondent, Respondent

failed to keep records of the wetting agent/fume suppressant added to Respondent's non-cyanide nickel electroplating and cadmium electroplating tanks, thereby deviating from the requirements of 40 C.F.R. 63, Subpart WWWWWW.

20. As a result of the deviation from the requirements of 40 C.F.R. 63, Subpart WWWWWW, Respondent was required to prepare and submit to the Illinois EPA an annual compliance certification by January 31, 2011.

21. Respondent failed to provide an annual compliance certification to the Illinois EPA by January 31, 2011, which stated that Respondent added wetting agent/fume suppressant to its non-cyanide nickel electroplating and cadmium electroplating tanks.

22. By failing to prepare, and timely submit to the Illinois EPA, an annual compliance certification stating that Respondent added wetting agent/fume suppressant to its non-cyanide nickel electroplating and cadmium electroplating tanks, Respondent violated Section 63.11509(c)(1) of the NESHAP regulations, 40 C.F.R. § 63.11509(c)(1), and, as a result, also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), and Section 63.11509(c)(1) of the NESHAP regulations, 40 C.F.R. § 63.11509(c)(1), as alleged herein;

3. Ordering Respondent to cease and desist from any further violations of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), and Section 63.11509(c)(1) of the NESHAP regulations, 40 C.F.R. § 63.11509(c)(1);

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board may deem appropriate.

COUNT III

FAILURE TO MAINTAIN RECORDS SUPPORTING NOTIFICATION OF COMPLIANCE STANDARDS FOR PLATING AND POLISHING OPERATIONS

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count III.

18. Section 63.11509(e) of the NESHAP regulations, 40 C.F.R. § 63.11509(e), provides:

(e) You must keep the records specified in paragraphs (e)(1) through (3) of this section.

(1) A copy of any Initial Notification and Notification of Compliance Status that you submitted and all documentation supporting those notifications.

(2) The records specified in § 63.10(b)(2)(i) through (iii) and (xiv) of the General Provisions of this part.

(3) The records required to show continuous compliance with each management practice and equipment standard that applies to you, as specified in § 63.11508(d), "What are my compliance requirements?"

19. Section 63.10(b)(2)(i) through (iii) and (xiv) of the NESHAP regulations, 40

C.F.R. § 63.10(b)(2)(i) through (iii) and (xiv), provides:

(b) General recordkeeping requirements.

* * *

(2) The owner or operator of an affected source subject to the provisions of this part shall maintain relevant records for such source of—

(i) The occurrence and duration of each startup or shutdown when the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards;

(ii) The occurrence and duration of each malfunction of operation (i.e., process equipment) or the required air pollution control and monitoring equipment;

(iii) All required maintenance performed on the air pollution control and monitoring equipment;

* * *

(xiv) All documentation supporting initial notifications and notifications of compliance status. . . .

20. On November 17, 2010, the Illinois EPA conducted an inspection at the Facility, during which Respondent failed to provide the Illinois EPA inspector with the following records for the period of July 1, 2010 to at least November 17, 2010: (a) records supporting its Notification of Compliance Status; (b) records of the occurrence and duration of each startup or shutdown causing an exceedance of applicable emissions standards; (c) records of the occurrence

and duration of each malfunction of the operation or air pollution control and monitoring equipment; (d) records of all maintenance performed on air pollution control and monitoring equipment; and (e) records required to show continuous compliance with each management practice and equipment standard pursuant to Section 63.11508(d) of the NESHAP regulations, 40 C.F.R. § 63.11508(d), including the addition of the wetting agent/fume suppressant to the Facility's non-cyanide nickel and cadmium electroplating tanks.

21. By failing to maintain records supporting its Notification of Compliance Status and the required records relating to startups, shutdowns, malfunctions and maintenance, and by failing to demonstrate its continuous compliance with management practice and equipment standards, Respondent violated Section 63.11509(e) of the NESHAP regulations, 40 C.F.R. § 63.11509(e), and, as a result, also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), and Section 63.11509(e) of the NESHAP regulations, 40 C.F.R. § 63.11509(e), as alleged herein;

3. Ordering Respondent to cease and desist from any further violations of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010), and Section 63.11509(e) of the NESHAP regulations, 40 C.F.R. § 63.11509(e);

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board may deem appropriate.

COUNT IV

FAILURE TO MONITOR AND RECORD ACTUAL DWELL TIME ON A MONTHLY BASIS FOR OPEN TOP BATCH VAPOR DEGREASER

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count IV.

13. Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), provides:

9. No person shall:

* * *

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

14. As an owner and operator of an open top batch vapor degreaser, Respondent operates equipment capable of causing or contributing to air pollution.

* * * * * PCB 2012-112 * * * * *

15. Subpart T of Part 63, Title 40 of the C.F.R. was adopted pursuant to Section 112 of the Clean Air Act as part of the NESHAP regulations. Subpart T contains the National Emission Standards for Halogenated Solvent Cleaning. The standards of 40 C.F.R. 63, Subpart T are enforceable in the State of Illinois pursuant to Section 9.1 of the Act, 415 ILCS 5/9.1 (2010).

16. As an owner and operator of an open top batch vapor degreaser, Respondent is subject to the requirements of 40 C.F.R. 63, Subpart T.

17. Section 63.466(b)(2) of the NESHAP regulations, 40 C.F.R. § 63.466(b)(2), provides:

(b) . . . each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the equipment standards of § 63.463(b)(1)(i), (b)(2)(i), (c)(1)(i), or (c)(2)(i) shall conduct monitoring and record the results on a monthly basis for the control devices, as appropriate, specified in paragraphs (b)(1) and (b)(2) of this section.

* * *

(2) If a dwell is used, the owner or operator shall determine the actual dwell time by measuring the period of time that parts are held within the freeboard area of the solvent cleaning machine after cleaning.

18. Condition 7(c) of FESOP No. 73070088 issued to Respondent provides:

7. Each machine must meet the following control combination (and) requirements, pursuant to 40 CFR Part 63.463:

* * *

c.i. The Permittee shall determine the dwell time for parts to be cleaned. . . .

ii. The Permittee shall ensure that parts are held in the freeboard area above the vapor zone for the determined dwell time. A monthly measurement of the actual dwell time shall be conducted.

iii. Record dwell time determination in second and time measurement calculations for life time.

19. Condition 8(a)(i) of FESOP No. 7307088 issued to Respondent provides:

8a. The Permittee shall comply with the following monitoring procedures requirements, pursuant to 40 CFR Part 63.466.

i. The Permittee shall conduct monitoring and record the results on a monthly basis for the dwell, pursuant to 40 CFR Part 63.466(b)(2). The Permittee shall determine the actual dwell time by measuring the period of time that parts are held within the freeboard area of the solvent cleaning machine after cleaning.

20. On November 17, 2010, and on such earlier dates better known to Respondent, Respondent chose to demonstrate compliance with 40 C.F.R. § 63, Subpart T through the use of dwell time in its open top batch vapor degreaser.

21. On November 17, 2010, the Illinois EPA conducted an inspection at the Facility, during which Respondent failed to provide records of actual dwell time on a monthly basis for its open top batch vapor degreaser to the Illinois EPA inspector.

22. By failing to monitor and record actual dwell time on a monthly basis for its open top batch vapor degreaser, Respondent violated Section 63.466(b)(2) of the NESHAP regulations, 40 C.F.R. § 63.466(b)(2), and conditions 7(c) and 8(a)(i) of FESOP No. 73070088. As a result, Respondent also violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010), Section 63.466(b)(2) of the NESHAP regulations, 40 C.F.R. § 63.466(b)(2), and conditions 7(c) and 8(a)(i) of FESOP No. 73070088, as alleged herein;

3. Ordering Respondent to cease and desist from any further violations of Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010), Section 63.466(b)(2) of the NESHAP regulations, 40 C.F.R. § 63.466(b)(2), and conditions 7(c) and 8(a)(i) of FESOP No. 73070088;

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board may deem appropriate.

COUNT V

**FAILURE TO MAINTAIN RECORDS OF ACTUAL DWELL TIME FOR OPEN TOP
BATCH VAPOR DEGREASER**

1-18. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I and paragraphs 13 through 17 and paragraph 20 of Count IV as paragraphs 1 through 18 of this Count V.

19. Section 63.467(b)(1) of the NESHAP regulations, 40 C.F.R. § 63.467(b)(1), provides:

(b) Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with § 63.463 shall maintain records specified in paragraphs (b)(1) through (b)(4) of this section either in electronic or written form for a period of 5 years.

(1) The results of control device monitoring required under § 63.466.

20. Condition 9(b)(i) of FESOP No. 7307088 issued to Respondent provides:

9b. The Permittee shall retain the following records in electronic or written form for a period of 5 years, pursuant to 40 CFR Part 63.467(b).

i. The results of control device monitoring required under 40 CFR Part 63.466.

21. On November 17, 2010, the Illinois EPA conducted an inspection at the Facility, during which Respondent failed to provide records of actual dwell time on a monthly basis for its open top batch vapor degreaser to the Illinois EPA inspector.

22. By failing to maintain records of actual dwell time on a monthly basis for its open top batch vapor degreaser, Respondent violated Section 63.467(b)(1) of the NESHAP regulations, 40 C.F.R. § 63.467(b)(1), and condition 9(b)(i) of FESOP No. 73070088. As a result, Respondent also violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010), Section 63.467(b)(1) of the NESHAP regulations, 40 C.F.R. § 63.467(b)(1), and condition 9(b)(i) of FESOP No. 73070088, as alleged herein;

3. Ordering Respondent to cease and desist from any further violations of Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010), Section 63.467(b)(1) of the NESHAP regulations, 40 C.F.R. § 63.467(b)(1), and condition 9(b)(i) of FESOP No. 73070088;

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board may deem appropriate.

COUNT VI

**FAILURE TO DEVELOP AND MAINTAIN AN OPERATIONS AND
MAINTENANCE PLAN FOR DECORATIVE CHROMIUM
ELECTROPLATING TANK**

1-14. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I and paragraphs 13 through 14 of Count IV as paragraphs 1 through 14 of this Count VI.

15. Subpart N of Part 63, Title 40 of the C.F.R. was adopted pursuant to Section 112 of the Clean Air Act as part of the NESHAP regulations. Subpart N contains the National Emission Standards for Chromium Emissions from Hard and Decorative Chromium

Electroplating and Chromium Anodizing Tanks. The standards of 40 C.F.R. 63, Subpart N are enforceable in the State of Illinois pursuant to Section 9.1 of the Act, 415 ILCS 5/9.1 (2010).

16. As an owner and operator of a decorative chrome electroplating tank, Respondent is subject to the requirements of 40 C.F.R. 63, Subpart N.

17. Section 63.342(f)(3) of the NESHAP regulations, 40 C.F.R. § 63.342(f)(3), provides in pertinent part:

(f) Operation and maintenance practices. All owners or operators subject to the standards in paragraphs (c) and (d) of this section are subject to these operation and maintenance practices.

* * *

(3) Operation and maintenance plan.

(i) The owner or operator of an affected source subject to paragraph (f) of this section shall prepare an operation and maintenance plan no later than the compliance date, except for hard chromium electroplaters and the chromium anodizing operations in California which have until January 25, 1998. The plan shall be incorporated by reference into the source's title V permit, if and when a title V permit is required. . . .

18. Section 63.342(d) of the NESHAP regulations, 40 C.F.R. § 63.342(d), provides:

(d) Standards for decorative chromium electroplating tanks using a chromic acid bath and chromium anodizing tanks. During tank operation, each owner or operator of an existing, new, or reconstructed affected source shall control chromium emissions discharged to the atmosphere from that affected source by either:

(1) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.01 mg/dscm (4.4×10^{-6} gr/dscf); or

(2) If a chemical fume suppressant containing a wetting agent is used, by not allowing the surface tension of the electroplating or anodizing bath contained within the affected source to exceed 45 dynes/cm (3.1×10^{-3}

lb/ft) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb/ft) as measured by a tensiometer at any time during operation of the tank.

19. Respondent's decorative chrome electroplating tank constitutes a decorative chromium electroplating tank subject to the standards in paragraph (d) of Section 63.342 of the NESHAP regulations, 40 C.F.R. § 63.342.

20. Condition 13(a) of FESOP No. 73070088 issued to Respondent provides in pertinent part:

13a. The Permittee shall implement the following Operation and Maintenance (O&M) Plan, pursuant to 40 CFR 63.342(f)(3):

- (i) Description of the fume suppressant with wetting agent in use.
- (ii) A checklist to document the operation and maintenance of the fume suppressant with wetting agent.
- (iii) Procedure to follow to ensure that fume suppressant with wetting agent malfunctions due to poor maintenance or other preventable conditions do not occur.
- (iv) Procedure for identifying malfunctions and for implementing corrective actions.
- (v) The O&M plan shall incorporate proposed work practice standards. . . .
- (vi) The plan shall specify procedures to be followed to ensure that fume suppressant with wetting agent malfunctions due to poor maintenance or other preventable conditions do not occur.
- (vii) The plan shall include a systematic procedure for identifying malfunctions of process equipment, add-on air pollution control devices (if any), and process and control system monitoring equipment and for implementing corrective actions to address such malfunctions. . . .

21. On November 17, 2010, the Illinois EPA conducted an inspection at the Facility, during which Respondent failed to provide an operations and maintenance plan for its decorative chrome electroplating tank to the Illinois EPA.

22. On November 17, 2010, and on such earlier dates better known to Respondent, Respondent failed to develop and maintain an operations and maintenance plan for its decorative chrome electroplating tank.

23. By failing to develop and maintain an operations and maintenance plan for its decorative chrome electroplating tank, Respondent violated Section 63.342(f)(3)(i) of the NESHAP regulations, 40 C.F.R. § 63.342(f)(3)(i), and condition 13(a) of FESOP No. 73070088. As a result, Respondent also violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010), Section 63.342(f)(3)(i) of the NESHAP regulations, 40 C.F.R. § 63.342(f)(3)(i), and condition 13(a) of FESOP No. 73070088, as alleged herein;

3. Ordering Respondent to cease and desist from any further violations of Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2010), Section 63.342(f)(3)(i) of the NESHAP regulations, 40 C.F.R. § 63.342(f)(3)(i), and condition 13(a) of FESOP No. 73070088;

* * * * * PCB 2012-112 * * * * *

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board may deem appropriate.

COUNT VII

FAILURE TO MAINTAIN A MAINTENANCE RECORD FOR SCRUBBER

1-14. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I and paragraphs 13 through 14 of Count IV as paragraphs 1 through 14 of this Count VII.

15. Standard condition 8 of FESOP No. 73070088 issued to Respondent provides:

The permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. This record shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. As a minimum, this record shall show the date of performance and nature of preventive maintenance activities.

16. On November 17, 2010, the Illinois EPA conducted an inspection at the Facility, during which Respondent failed to provide a maintenance record for its scrubber to the Illinois EPA.

17. On November 17, 2010 and on such earlier dates better known to Respondent, Respondent failed to develop and keep maintenance records for its scrubber.

18. By failing to develop and keep maintenance records for its scrubber, Respondent violated standard condition 8 of FESOP No. 73070088 and, as a result, also violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2010).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, BERTEAU-LOWELL PLATING WORKS, INC.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), and standard condition 8 of FESOP No. 73070088, as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), and standard condition 8 of FESOP No. 73070088;
4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;
5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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6. Granting such other relief as the Board may deem appropriate.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: Matthew J. Dunn
Matthew J. Dunn, Chief

Of Counsel

KATHRYN A. PAMENTER
Assistant Attorney General
69 W. Washington Street, 18th Floor
Chicago, Illinois 60602
312-814-0608

CERTIFICATE OF SERVICE

I, Kathryn A. Pamentor, an Assistant Attorney General, do certify that I caused to be served *via certified mail* this 17th day of February, 2012, the attached Notice of Electronic Filing and Complaint upon the person listed below by placing a true and correct copy in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 69 West Washington Street, Chicago, Illinois, at or before the hour of 5:00 p.m.

Berteau-Lowell Plating Works, Inc.
c/o Mr. James Elies, Registered Agent
2320 W. Fullerton Avenue
Chicago, IL 60647


KATHRYN A. PAMENTER